

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

JAMES ARTHUR EVANS,)
Plaintiff,) Case No. 1:19-cv-238-CLC-CHS
v.)
JURY DEMAND
BLEDSOE COUNTY GOVERNMENT,)
CITY OF PIKEVILLE,)
PTL OFFICER RICKY HODGE, in his official)
capacity as an agent for the City of Pikeville and)
in his individual capacity,)
DEPUTY CHASE ROBERTS, in his official)
capacity and as an agent for the Bledsoe County)
Government and in his official capacity,)
Defendants.)

MOTION FOR SUMMARY JUDGMENT

Bledsoe County and Chase Roberts (hereinafter “Defendants” unless otherwise specifically identified), by and through counsel, and pursuant to Rule 56 of the *Federal Rules of Civil Procedure* file with the Court their Motion for Summary Judgment as follows:

1. The above-styled case is a claim for damages as a result of, *inter alia* and generally speaking, excessive use of force. See Plaintiff's Complaint, Doc 1.

2. Plaintiff thereafter filed an amended complaint and alleges that he was attacked at his residence on August 28, 2018 and during the attack, he was wrongfully battered, unlawfully seized and detained against his will by Defendants. See ¶ 10, Doc 21, Plaintiffs First Amended Complaint.

3. Plaintiff further alleges that Defendants were reckless in their use of excessive force. See ¶ 11(a), Doc 21, Plaintiff's First Amended Complaint.

4. As a result of the incident and events giving rise to this litigation, Plaintiff was arrested and charged with resisting arrest. Plaintiff, in fact, was convicted of resisting arrest and such conviction was affirmed on appeal. See Index of Exhibits filed contemporaneously herewith.

5. In the appellate court order affirming Plaintiff's conviction of resisting arrest, it was specifically held that Plaintiff raised as a defense to the resisting arrest charge excessive force and improper actions by Defendants; however, Plaintiff's claims were rejected by the appellate court and Plaintiff's conviction of resisting arrest was affirmed.

6. In that respect the charge of resisting arrest is based on the following:

It is an offense for a person to intentionally prevent or obstruct anyone known to the person to be a law enforcement officer, or anyone acting in a law enforcement officer's presence and at the officer's direction, from affecting a stop, frisk, halt, arrest or search of any person including the Defendant by using force against a law enforcement officer or another.

Tennessee Code Annotated, Section 39-16-602(c)

7. The provides that in order to recover damages under Section 1983, as claimed in this case, Plaintiff must prove and establish that his conviction of resisting arrest has been reversed on direct appeal, expunged, declared invalid, or called into question by the Court's issuance of a Writ of Habeas Corpus. Plaintiff's conviction for resisting arrest is final, has not been reversed and there is no issue related to a Writ of Habeas Corpus.

8. Furthermore, Plaintiff's conviction of resisting arrest precludes Plaintiff from having any recovery in this matter, pursuant to the Doctrine of Collateral Estoppel, Judicial Estoppel, Res Judicata and other applicable law as more fully addressed in Defendant's Brief in Support of the instant motion.

9. As a result of Plaintiff's conviction of resisting arrest, Defendants now move the Court for the Order dismissing the above-styled case in full and with prejudice on the merits.

WHEREFORE, Defendants pray for relief set forth above.

Respectfully submitted,

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Chase Roberts*

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of November, 2022, I electronically filed this document along with any exhibits with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

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